

APPEAL NO. 022579
FILED NOVEMBER 21, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on September 4, 2002. The hearing officer determined that the appellant (claimant) was not entitled to supplemental income benefits (SIBs) for the fifth, sixth, and seventh quarters. The claimant appealed on sufficiency of the evidence grounds. The respondent (carrier) responded, urging affirmance.

DECISION

The hearing officer's decision is affirmed.

Eligibility criteria for SIBs entitlement are set forth in Section 408.142(a) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102). At issue in this case are the good faith and direct result criteria of Rule 130.102(b). The hearing officer determined that during the relevant qualifying periods the claimant did not make a good faith effort to find employment commensurate with his ability to work and that the claimant's underemployment was not a direct result of his impairment. The hearing officer was not persuaded that the claimant's work restrictions established within "reasonable medical basis" that he could only work part time, rather than full time, during the qualifying periods in dispute. Additionally, the hearing officer determined that the medical evidence reflected that the claimant had an ability to work with no restrictions during the qualifying periods in dispute.

Whether the claimant's underemployment was a direct result of the impairment from the compensable injury and whether the claimant made a good faith effort to obtain employment commensurate with his ability to work during the qualifying periods in dispute were fact questions for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence, including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). In view of the evidence presented, we cannot conclude that the hearing officer's determinations are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **ST. PAUL FIRE AND MARINE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.**

Veronica Lopez
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Thomas A. Knapp
Appeals Judge